



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

(1) Petition to have the Public Administer Cited to Appear before the Court Re: Condition of Estate and Reasons why the Estate Cannot be Distributed and Closed; and (2) Payment of Three Pecuniary Devises with Interest at Seven Percent (7%); and (3) to Surcharge Administrator for Unnecessary and Unreasonable Delays in Closing said Estate; and (4) Points and Authorities; and (5) Declaration of Barbara Rivera

DOD: 8/24/07		<p>BARBARA RIVERA, beneficiary and named executor in Decedent's Will, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> On 7/18/08, the Public Administrator was appointed as Administrator by <i>Ex Parte</i> Order pursuant to PrC §7660 et seq. (<i>Summary Disposition of Small Estates</i>); None of Decedent's devisees named in her Last Will were notified either before or after appointment of the Public Administrator; Decedent's estate could have been closed within 6 months of the Public Administrator's appointment, or within one year as required by PrC §12200(a). This section requires that an estate be closed within one year, after issuance of Letters, in which a federal estate tax return is not required; Here, Letters did not issue because the Public Administrator was appointed pursuant to PrC §7660(a)(1); however, they would have issued on or about 7/18/08; This past August 2011 was the fourth anniversary of Decedent's death and there is no reason for this extended delay on a "small estate" probate case filed under PrC §7660 et seq.; Decedent's Last Will designates gifts to devisees (one of whom passed away on 2/15/09); The Public Administrator should be surcharged with the amount of money due the pecuniary devisees' as interest on their bequests, with said surcharge amount to be paid by the Administrator's personal funds and the forfeit of any commission; Per PrC §12003, beneficiaries are entitled to interest on their pecuniary bequests at 7% simple interest. Section 12003 provides in relevant part: "If a general pecuniary devise...is not distributed within one year after the..death, the devise bear interest thereafter." The effective rate of interest is 7% (see PrC §12001); The total amount due the named beneficiaries, with interest included (interest calculated from 8/24/08 (year after date of death) – 10/31/11): <ul style="list-style-type: none"> Norma Raffeedy (sister; <i>now deceased</i>): \$6,115.21 (original devise: \$5,000); Rose A. Harb (sister): \$6,115.21 (original devise: \$5,000) Harb Almendras (niece): \$1,070.00 (original devise: \$1,000) <p style="text-align: center;"><u>SEE ATTACHED PAGE</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 12/5/11.</u></p> <p>1. Need Proposed Order.</p> <p>Note: The Fresno County Public Guardian was Decedent's Conservator prior to her death (04CEPR01188).</p>	
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				<p>Reviewed by: NRN</p> <p>Reviewed on: 1/11/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1A - Boalbey</p>

CONT'D:

- Furthermore, in related Fresno County Superior Court Case 04CEPR01188 (Decedent's Conservatorship Case –Public Guardian was Conservator of the Estate), the Public Guardian indicated in its final accounting and request for discharge (filed 9/23/10) that a 1999 Federal Individual Income Tax Return balance of \$3,658.00 was owed;
- However, the \$3,658.00 is in fact not owed, nor was it a lien on Decedent's funds at the time of that final accounting because: 1) *Per Declaration of Petitioner Barbara Rivera*, attached to the instant Petition, the IRS had been deducting from Decedent's monthly Social Security payments an amount to cover Decedent's lien due on the 1999 Tax Return; and 2) because as on 4/15/09, the lien was no longer in existence pursuant to U.S. Code Title 26, 6502 and that as such, an Court may not approve such a claim barred by the statute of limitations (see PrC §9253). For these reasons, the lien amount should never have been shown as a liability on the Public Guardian's last account in the Conservatorship case;
- The Estate is now in a position to be closed, except for the payment of the interest due on the pecuniary gifts as mentioned above;
- Finally, the Public Administrator's Commission should be reduced to no dollar amount, because of the Public Administrator's delay or mismanagement of this small estate; per PrC § 12205(a), a court may reduce a personal representative's compensation by an amount the Court determines as appropriate if said court makes 3 determinations: 1) the time taken for the administration exceeds the one-year; 2) that time taken was within the control of the representative, and 3) the delay was not in the best interest of the estate or interested persons.
- **Petitioner requests the Court order:**
 - That the pecuniary gifts be made to the devisees;
 - That the interest (amounts identified above) be paid to devisees by the Administrator personally (including daily interest calculated after 10/31/11); and
 - That the Public Administrator to close the Estate.

Objection by Public Administrator, filed 11/30/11, states:

1. The Estate could not close before now because of tax issue;
 2. On 8/20/10, Deputy PA Noe Jimenez receive the 199 tax return for New York State Income Tax and 2004 and 2008 Fed Income Taxes from Accountant Paul Dictos; on 4/1/11, Deputy Jimenez received notice from NY State that all Ms. Boalbey's tax liens were satisfied; then on 8/15/11 received a letter from the Treasury Dept. that a 2008 return was not filed, and that the estate had a \$181.00 tax credit; finally on 10/18/11, Deputy Jimenez received \$181.00 plus \$18.25 interest from the US Treasury (one week before the PA or County Counsel know of a surcharge petition filed by Petitioner – one phone call by either Petitioner or her attorney would have avoided the time and expense of this Petition);
 3. The PA at all times worked on this case in close connection with his accountant and as a result obtained a refund and interest on federal taxes;
 4. The PA would additionally like to make 3 specific comments or objections: 1) The PA will pay the devisees the interest that has accrued, but from the estate residue – to reiterate, the PA did not mismanage or delay the administration of the estate and should therefore not be responsible for the interest payments;
 5. Further, regarding Petitioner's assertion that the PA should have included a federal tax liability on her Final Account, Petitioner's attorney in fact filed a "No Objection to Amended Account."
- P.A. requests the Petition be denied, and that a status hearing be set 45 days from now for the PA to file his final account.

Cont'd:

Reply to Objection, filed 12/1/11, states:

1. P.A.'s Objection was not received in time pursuant to the C.C.P. (9 court days before the hearing);
2. Regarding the "No Objection" filed, there would be no objection in 2010 to a "liability" when the statute had run and that as of 4/16/09, the lien was "out of existence;"
3. Further, no creditor's claim had been filed by the State of New York; and the accountant's advice was in error as of 1/18/09, PA could have officially discontinued his involvement in the estate; and the IRS claim had expired 10 years after the tax return's filing date.

Public Administrator's Response to Reply, filed 12/2/11states: Objection was timely pursuant to Local Rule 7.4.2.

DOD: 8/24/07			PUBLIC ADMINISTRATOR , Administrator, is Petitioner. Account Period: 10/26/09 – 12/27/11 Accounting - \$89,394.23 Beginning POH - \$54,244.14 Ending POH - \$57,505.80 Administrator - \$2,206.57 (statutory) Attorney - \$2,206.57 (statutory) Bond fee - \$670.47 <u>Petitioner requests distribution, pursuant to Decedent's Will, as follows:</u> Norma Rafeedy (deceased): \$5,000.00 plus \$1,115,21 in interest (<i>Petition states Ms. Rafeedy passed away during the administration of this Estate. Petitioner will determine the beneficiaries of Ms. Rafeedy's share prior to the hearing on this Final Account Petition</i>) Rose Harb: \$1,115,21 in interest (Petitioner states this distributee has already received \$5,000 in preliminary distribution) Nancy Almendras: \$222.92 in interest (Petitioner states this distributee has already received \$1,000.00 in preliminary distribution) Barbara Rivera: \$10,738.86 <u><i>See attached page</i></u>	NEEDS/PROBLEMS/COMMENTS:
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Reviewed by: NRN
Reviewed on: 1/12/11
Updates:
Recommendation:
File 1B - Boalbey

1B

Cont'd:

Objection to Public Administrator's Final Accounting and Report, filed 1/10/12, states:

- Barbara Rivera ("Objector") objects to the Public Administrator's disbursements as stated on Schedule D ("Disbursements") on the Final Account;
- The \$1,540.46 paid for NY State income tax – 1999 should be returned;
 - Public Administrator did not disclose any amount owed to New York
 - New York State did not file a creditor's claim in this Estate
 - PrC 9200 should apply to New York State: "...a claim by a public entity shall be filed within the time otherwise provided in this part..." §9200(a). §9200(b) reads that "public entity" as used in this chapter has the meaning provided in §811.2 of the Government Code. Objector herein states that although New York State does not come within the §811.2 Gov't Code definition, the general wording of §9200 should have applied to New York
- Public Administrator should be surcharged the unauthorized payment of \$3,658.00 (Income tax for 1999), for \$14,819.97 paid to the US Treasury (1999 Income tax), and for \$3,500.00 paid to Paul A. Dictos for performing unnecessary work
 - Decedent owed no taxes; even if they were, per the IRS and US Code regulations, that statute of limitations had run on Decedent's 1999 federal taxes by at least 4/16/09
 - The taxes were not owed because the IRS had been deducting from Decedent's monthly Social Security payments an amount to cover Decedent's lien payment(s) due on Decedent's Federal Individual Income Tax Return
- Public Administrator should pay the estate devisees their accrued interest due to the Public Administrator's delay in closing this Estate
 - Public Administrator was appointed in July 2008
 - Letters may have not issued since it was initially filed pursuant to §7660 (*re summary disposition of small estates*), however this past August was Decedent's fourth anniversary of the date of her death
 - PrC §12200 provides that the personal representative shall either petition for an order for final distribution or make a status report not later than one year after the date letters issued on an estate where a federal estate tax return is not required (§12200(a)); if required, within 18 months
 - There is no reason for the extended delay on a small estate probate matter filed pursuant to §7660
- Because of the Public Administrator's delay or mismanagement, it should receive no statutory commission
 - Time taken for Public Administrator to close this Estate exceeds that required by §12200(a)
 - Pursuant to §12205, the Court may reduce the personal representative compensation to a court-determined more appropriate amount, if it makes all of the following determinations: 1) time taken for administration exceeds one year 2) time taken was in personal representative's control and 3) the delay was not in the estate's or estate's interested persons' best interests.

SEE ATTACHED PAGE

- As it was clear no creditor's claim was to be filed with the estate, there is further no reason the administration should not have closed sooner, and the Court should determine that the length of time it has taken to close the Estate is not in the best interest of the estate or interested persons
- §12205(b) and relevant legislation provides that an order under this code section may be made to guard beneficiaries and interested persons against the payment of compensations otherwise allowable for services rendered by the personal representative

Conclusion: As there were no tax or other material liabilities owed by Decedent, Objection requests the Court should order a surcharge against the Public Administrator in the amount of \$28,678.34 (which includes Petitioner's requested statutory fee amount of \$2,206.57), with the break down as follows:

- | | |
|---|--|
| 1. NY State Income Tax 1999 (8/25/10) \$1,540.46 | 6. Interest – heirs of Norma Refeedy \$1,115.21 |
| | 7. Interest - Rose Harb \$1,115.21 |
| 2. Income tax due 1999 – 1040 (8/25/10) \$3,658.00 | 8. Interest – Nancy Almendras (1/23/12) \$222.92 |
| 3. Income tax due 1999 – 1040 (5/4/11) \$14,819.97 | 9. Petitioner's statutory fee request: \$2,206.57 |
| 4. Paul Dictos 1999 US and NY Income Tax (11/16/11) \$750.00 | |
| 5. Paul Dictos 1999 US and NY Income Tax (9/8/10) \$3,250.00 | |
| 6. Petitioner's statutory fee request \$2,206.57 | |

3A ELAINE A. MCLAIN (TRUST)**Case No. 11CEPR00028****Atty Panzak, Gordon (for Jeff Dale/Successor Trustee – Petitioner)****Atty Pasto, James H. (of San Diego, for Debbie Duehning, Guardian Ad Litem for George McLain IV, Trust beneficiary)****Status Conference Re: Petition for Instructions**

DOD: 5/21/08		<p>JEFF DALE, Successor Trustee of the Elaine A. McLain Trust of 1996 (“Trust”), is Petitioner.</p> <p>Petitioner states:</p> <ol style="list-style-type: none"> Elaine McLain (“Decedent”) created the Trust on 10/26/96 (a copy of the Trust is attached to Petition); The Trust became irrevocable upon Decedent’s death in May 2008; Michele Dale and George McLain IV, named successor trustees, are both incompetent within the meaning of the Trust’s disqualification clauses (see Trust – p. 14; paragraph 9); Petitioner succeeded both George McLain IV and Michelle Dale as sole successor trustee; The principal place of Trust administration is Fresno County; During the co-trusteeship of Michele Dale and George McLain IV, Decedent directed that 2 parcels of Trust real property be sold, and both co-trustees participated in the sales; A substantial portion of the proceeds of the 2 sales were consumed in the day-to-day care of Decedent; The remaining portion of the funds were placed in an investment account which primarily held stocks and securities traded on the New York Stock Exchange; Title to the investment accounts were in the name of Elaine McLain and Michele Dale as joint tenants; no reference was made to trustee or fiduciary interests in the ownership documents; The Trust (p. 10, paragraph 5, sub M), allows title to remain in the Trust even though the title documents do not disclose the trusteeship or fiduciary obligation of the account holder; In the fall of 2008, the Stock Market collapsed and the security accounts plummeted to ½ of their value and were trending even lower; The Conservator of the Estate for Michele Dale obtained an emergency court order, allowing funds to be withdrawn from the investment account before further loss could occur, which resulted in saving approximately \$214,00.00; Due to ambiguity of the Trust’s wording at P.10, paragraph 5, sub M, on the advice of counsel, the money was split into 2 segregated accounts: one account for the benefit of Michele Dale, Conservatee, and the other for the benefit of George McLain IV; <p><i>--see attached page--</i></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 11/7/11. Minute Order states:</u> Mr. Panzak requests the case be continued. If counsel needs the court’s assistance, the court is amenable to a conference call with both attorneys.</p>	
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Reviewed by: NRN
Reviewed on: 1/13/12
Updates:
Recommendation:
File 3A - Mclain

Dept. 303, 9:00 a.m. Monday, January 23, 2012

3A ELAINE A. MCLAIN (TRUST)**Case No. 11CEPR00028****Cont'd:**

14. In September 2009, Conservator of Michele Dale petitioned this Court for instructions to distribute the segregated accounts to the Trust;
15. This Court declined to issue instructions, believing insufficient facts were before the Court to justify the instructions;
16. The Michele Dale Conservatorship's principal place of management is in Fresno County;
17. Pursuant to P.10, paragraph 5, subs. K and Q, the successor trustee is entitled to retain counsel and commence any necessary litigation on behalf of the Trust.

Argument:

- a. Petitioner believes the proceeds in the 2 segregated accounts are attributable and traceable to the co-trustees' sales of the 2 parcels of real property, and that the accounts are therefore property of the Trust;
- b. It is reasonable and necessary to file an action against the Conservatorship Estate of Michele Dale in order to regain control of the accounts and in order to close the Trust, pay debts and taxes, and distribute the remainder to the beneficiaries.

Petitioner requests an Order:

1. That good cause exists for the issuance of the instructions;
2. That successor trustee (Petitioner) be authorized to commence the litigation against the conservatorship to pay all necessary and reasonable costs involved from Trust assets;
3. That Petitioner be authorized to retain counsel as he deems appropriate and pay an initial retainer not to exceed \$10,000.00 and pay an hourly rate not to exceed \$300.00 per hour;
4. That Petitioner be authorized to enter into other such compensation agreements including making a contingency fee payment agreement not to exceed \$25,000.00 in addition to or alternative to the compensation mentioned with respect to counsel fees above.

Supplement to Successor Trustee's Petition for Instructions, filed 4/4/11 by Petitioner Jeff Dale, states:

- The matter was initially heard on 2/28/11 in Dept. 303, Fresno Superior Court;
- Upon agreement of the parties present and upon suggestion of the Court, Petitioner agreed to modify the Prayer of his Petition for Instructions as follows:
 - Upon application of the Successor Trustee to the Trust, Petitioner prays for a Court order as follows:
 - That good cause appears for the issuance of the Instructions.
 - That Jeff Dale, as Conservator of the Estate of Michele Dale, Conservatee, be ordered to pay the Trust the sum of \$107,000.00, now being held by the Conservatorship of Michele Dale;
 - That Jeff Dale, as Conservator of the Estate of Michele Dale, Conservatee, be ordered to execute any and all documents necessary to facilitate such transfer of funds.

Atty Panzak, Gordon (for Jeff Dale/Successor Trustee – Petitioner)**Atty Pasto, James H. (of San Diego, for Debbie Duehning, Guardian Ad Litem for George McLain IV, Trust beneficiary)****Status Conference Re: Petition for Order Compelling Trustee to Make Distribution to Trust Beneficiary; For Imposition of a Constructive Trust; and for an Accounting [Prob. C. § 17200, et seq.]**

DOD: 5/26/08		GEORGE MCLAIN IV, by and through his Guardian Ad Litem, DEBBIE DUEHNING, is Petitioner (“Petitioner”). Petition states: <ul style="list-style-type: none"> Decedent died on or about 5/26/08, a resident of San Diego County; The Trust at issue is The Elaine A. McLain Trust of 1996 (“Trust”); administration of said Trust is in Fresno County; Respondent Jeffrey Dale (“Respondent”), Conservator of the Person and Estate of Michelle Lloyd Dale; is also the sole successor Trustee of the Trust; Petitioner George McLain IV is a beneficiary of the Trust; At the time of its creation, the Trust owned 1) real property known as 528 Dawson, Morro Bay, California 2) 1095 Allesandro, Morro Bay, California and 3) money invested in the Franklin California Tax Free Income Fund, Inc., Acct. No. 1120-1121500; Prior to Decedent’s death, the two real properties were sold by Respondent and deposited into bank accounts held in Michele Lloyd Dale’s name, as was the Franklin California Tax Free account; As such, the Trust’s property is money held in an account or accounts in Michele Lloyd Dale’s name, in such sum(s) more particularly within Respondent’s knowledge; Petitioner believes some or all of the funds may have been transferred back to the Trust and Petitioner is unaware of the precise ownership of those funds; However, Petitioner further alleges that if any transfer was made from the Trust to Michele Lloyd Dale and Decedent with right of survivorship, such transfer was made when Trustor (Decedent) lacked capacity to understand the nature and effect of said transfer. Decedent did not intend to remove the funds from the Trust corpus, and did not intend for all of the unused portion of the Trust to go solely to Michele Lloyd Dale, to the exclusion of Decedent’s son, Petitioner George McLain IV; Petitioner is a Trust beneficiary with ½ interest in the Trust; Michele Lloyd Dale is the only other Trust beneficiary; Per Trust terms, upon Decedent Trustor’s death, the Trust terminates and is to be distributed to Decedent’s children, Petitioner and Michele L. McLain Dale, equally. Despite Petitioner’s repeated demands, Respondent Jeffrey Dale has refused to distribute that portion of the Trust to Petitioner; On 5/28/10, Petitioner’s attorney (Mr. Pasto) delivered a written request to Respondent for an account of Trust activities and status of the Trust corpus (copy of letter attached to Petition); Respondent Trustee has failed to provide any account whatsoever; Petitioner believes compensation in a reasonable sum determined by the Court should be awarded as attorney’s fees for his attorney in this matter, and that said amount should be charged to Respondent’s account or as a Trust expense and paid to Attorney Pasto. <p align="center"><u>SEE ATTACHED PAGE</u></p>	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 11/7/11. Minute Order states: Mr. Panzak requests the case be continued. If counsel needs the court’s assistance, the court is amenable to a conference call with both attorneys.</u> 1. Need Order. <u>Note:</u> per this Court’s order dated 6/6/11, the Court ordered Jeff Dale, as Conservator of the estate of Michele Dale, to transfer \$107,000.00 from the conservatorship to the Trust. No distributions are to be made without further court order. NOTE: Page 3D is a Motion to Amend this Petition	
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Cont'd:**Request for Imposition of Constructive Trust**

- At all times a confidential relationship (Sole Trustee and Trust beneficiary) existed between Petitioner and Respondent;
- Respondent was aware or had reason to believe that Petitioner was suffering from a form of dementia and unable to understand the location and nature of his (Petitioner's) assets, and also unable to give informed consent to any of Respondent Trustee's actions in connection with Respondent's administration of the Trust;
- Respondent transferred title to the property that should have been distributed to Petitioner to account(s) in the name of Michele Doyle and without Petitioner's consent, at a loss to Petitioner in a sum as may be shown according to proof;
- Respondent has failed to distribute the funds to which Petitioner is entitled as Respondent Jeffery Dale, as Conservator of Michele Dale's estate wishes to maintain in other court and administrative proceedings the fiction that the Trust assets are property of the Trust and that Michele Dale does not have ownership or control of those funds;
- By virtue of Respondent's wrongful acts and the violation of the relationship of trust and confidence then existing between them, Respondent, as Trustee of the Trust and as Conservator of Michele Dale, holds title to Petitioner's one-half share of the Trust assets, as a constructive trustee for Petitioner's benefit.

Request for an Accounting

- Respondent owed Petitioner a duty to keep Petitioner reasonably informed of the Trust and its administration, and to account to Petitioner as a Trust beneficiary for Trust activities;
- Petitioner has repeatedly requested, both orally and in writing, that Respondent Jeffery Dale, as Trustee of the Trust, provide an account of the Trust's activities and required by the California Probate Code;
- Respondent has breached his fiduciary duties owed to Petitioner.

Petitioner requests:

- **The court find that Michele Dale holds Petitioner's interest in the aforementioned bank accounts in her name in constructive trust for the benefit of Petitioner;**
- **The court order Respondent Jeffrey Dale, Trustee, to distribute to Petitioner his portion of the Trust;**
- **The court require Respondent Jeffrey Dale to account for all Trust assets and activities to Petitioner;**
- **The court order Petitioner's attorney's fee in a reasonable sum to be paid to Petitioner's attorney directly from the Trust Estate, to be charged to Michele Dale or to the Trust estate;**
- **Costs of this proceeding be ordered paid by the Estate in proportions determined by the Court;**
- **Such other and further relief the Court deems just and proper.**

SEE ATTACHED PAGE

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Respondent's Answer to Petitioner's Petition for Order Compelling Trustee, filed 6/2/11, states:

- Respondent denies most allegations of Petitioner's Petition based on insufficient knowledge of facts alleged;
- Upon the creation of the Trust and thereafter, Petitioner Jeff Dale and Michele Dale were acting as co-trustees of the Trust;
- Between 3/19/6 and 7/2007, Petitioner and Michele Dale executed the duties of co-trustees; during this time period and at the direction of Decedent, Petitioner and Michele Dale, acting as co-trustees, sold the 528 Dawson and 1095 Allesandro properties; during this same time period, proceeds from the property sales were place into interest-bearing accounts at the direction of Decedent; said accounts were in Decedent and Michele Dales' names (and not in the name "Elaine A. McLain Trust of 1996;" both co-trustees agreed to and participated in all sales and transfers of the funds to those accounts;
- Between 3/19/96 and 5/26/08, most, if not all of the sales proceeds were consumed in the care of Decedent until her death; both co-trustees agreed and participated in the payments;
- Upon Decedent's death, any residual funds in the accounts went to Michele under the survivorship provision of the accounts (said accounts having been created in that manner with the participation and agreement of Decedent and co-trustees Jeff Dale and Michele);
- Upon the incapacities of Petitioner George McLain and Michele Dale in July 2007, Jeff Dale became sole successor Trustee and the principal place of administration of the Trust became 1408 H Street in Fresno;
- The status of the Franklin Fund Account was concealed from Trustee by Petitioner and his Guardian Ad Litem acting in concert with one another, and was only recently discovered;
- Trustee has contacted Franklin Funds and is in the process of bringing these funds into the Trust;
- Petitioner's Guardian Ad Litem is the former wife of George McLain IV, and has him locked in her home and is taking the proceeds from his Veterans Benefit Checks by the artifice of a very questionable Power of Attorney;
- Petitioner's Petition is in furtherance of the Guardian Ad Litem's fraudulent intent to defraud the Trust and George McLain IV.
- Respondent alleges various affirmative defenses, based upon the following assertions:
 - Petitioner as a beneficiary lacks standing with respect to assets in a revocable Trust and where the assets were removed and revoked by Trustor no later than 2003;
 - The property sales and transfer of the proceeds to the aforementioned accounts occurred no later than 2003 and were done with the knowledge and participation of Petitioner George McLain IV;
 - Petitioner's Petition is file against Jeff Dale in a personal capacity and not in the capacity of Trustee.
- **Respondent requests the Petition by denied, costs be awarded to Respondent, and for any other relief or order that the Court deems appropriate.**

Atty Panzak, Gordon (for Jeff Dale/Successor Trustee – Petitioner)

Atty Pasto, James H. (of San Diego, for Debbie Duehning, Guardian Ad Litem for George McLain IV, Trust beneficiary)

Petition to Review Reasonableness of Trustees Compensation, Reasonableness of Attorney's Fees and Costs, for an Accounting and for Removal of Trustee (Prob. C. 17200, et seq.)

DOD: 5/26/08		GEORGE MCLAIN, IV , through his Guardian ad Litem, DEBBIE DUEHNING , is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 11/7/11. Minute Order states:</u> Mr. Panzak requests the case be continued. If counsel needs the court's assistance, the court is amenable to a conference call with both attorneys.
		Petitioner states: <ul style="list-style-type: none"> Respondent, Jeffrey Dale ("Jeff Dale"), is Conservator of the person and estate of Michele Lloyd Dale ("Michele") in Fresno County Case No. 07CEPR01207; The Trust that is the subject of this action was created pursuant to a written Declaration of trust of Elaine A. McLain dated 3/19/96 and entitled "The Elaine A. McLain Trust of 1996," ("Trust"), and upon Elaine McLain's ("Decedent") death on 5/2/08, became irrevocable; Jeffrey Dale, resident of Fresno, is, after the incapacity George McLain IV, the sole successor trustee; George McLain IV is a Trust beneficiary, entitled to ½ of the estate (as is Michele), and he brings the instant petition pursuant to §17200(b)(50), (b)(7)(B), (b)(7)(C), (b)(10), and (b)(12); At its creation, the Trust was the owner of two real properties located in Morro Bay, CA, as well as money invested in the Franklin California Tax Free Income Fund, Inc.; Prior to Decedent's death, the two Morro Bay properties were sold by the Trustee and the proceeds were deposited into bank accounts held in Michele's name– as were the liquidated proceeds from the Franklin California Tax Free Income Fund account; Petitioner believes that some or all of the funds held in Michele's name may have been transferred back to the Trust, however, Petitioner is unaware of the precise ownership of these funds; however, if any of the funds were transferred from the Trust to Michele and Decedent with right of survivorship, said transfer was made when Decedent lacked capacity to understand the nature and effect of the transfer; Petitioner alleges that Decedent did not intend to remove funds from the Trust corpus, nor did she intend for the unused portion of the Trust to go solely to Michele, to the exclusion of her son, Petitioner George McLain; 	
Cont. from 101111, 110711			
Aff.Sub.Wit.		Respondent Trustee's Request for Compensation and Attorneys' Fees and Costs <ul style="list-style-type: none"> The Trust does not specify the trustee's compensation; On 7/29/11, Jeff Dale, as Trustee, served on Petitioner a First Account of Trust assets; the account requests \$14,400.00 as trustee compensation and \$19,500.00 for attorneys' fees and costs advanced; 	<u>SEE ATTACHED PAGE</u>
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
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Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
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UCCJEA			
Citation			
FTB Notice			

Cont'd:

- Said amounts are unreasonably high and unfounded because:
 - The main asset listed, a sum of \$109,451.02 on deposit with Bank of the West, was not deposited into the Trust account until April 2011 (and was, prior to this time, held in Michele's conservatorship estate); as Conservator of Michele's estate therefore, presumably Jeff Dale was entitled to and did receive compensation as Conservator in that proceeding – prior to that April 2011 deposit;
 - Further, the First Account lists two other "possible" assets, as they are either not yet part of the Trust estate or even Trust assets. These are a Franklin Templeton Investment Account in the approximate sum of \$21,631.91 and listed in the Account as "Pending transfer to the Trust"), and the other is designated as a "possible Trust asset," which being investigated by the Trustee; once again, there is no explanation as to why the Franklin Templeton Account has not been transferred to the Trust in the over 3-year period since Decedent's death; and again, assuming these funds were part of Michele's conservatorship estate, Jeff Dale was entitled to and presumably did receive compensation for his services as Conservator of the Michele's estate; presumably the "possible Trust asset" has also been held in the name of Michele's conservatorship estate;
- Still, Jeff Dale now seeks compensation in the amount of \$14,400.00, and he also does not explain the amount of attorneys' fees and costs in the amount of \$19,900.00;
- Petitioner also objects to the First Account in that it does not contain an inventory of the assets at such time as Jeff Dale assumed his duties as sole trustee, nor does the First Account provide detail of his actions taken as the trustee;
- Jeff Dale has breached his fiduciary duty to reasonably inform the Trust beneficiaries of his activities as trustee, as well as account for Trust assets;
- Jeff Dale has further wasted and mismanaged Trust assets to the detriment and loss of the Trust estate by commingling Trust assets with assets belonging to Michele's conservatorship estate – and he has failed to collect and preserve Trust assets in a timely fashion;
- Jeff Dale has further attempted to raid the Trust by requesting unreasonable compensation for activities conducted not for the Trust's benefit, but rather for Michele's conservatorship estate.

Petitioner requests:

1. A Court order compelling Jeff Dale to distribute to Petitioner his ½ portion of the Trust;
2. That the Court remove Jeff Dale as trustee of the Trust and appoint Petitioner as sole trustee;
3. Should the Court be unwilling to appoint Petitioner, that the Court appoint an independent qualified trustee;
4. That Jeff Dale be ordered to deliver all Trust assets in his possession and control to the successor trustee within 60 days after issuance of this Court's order;
5. That Jeff Dale be ordered to file an accounting detailing his acts as trustee, no later than 60 days after the Court's order;
6. That the Court order Petitioner's attorneys' fees in a reasonable sum, to be paid from the Trust estate, to be charged to Michele or the Trust estate;
7. That costs of this proceeding be ordered to be paid by the Trust estate in proportions determined by the Court; and
8. Other such relief as the Court deems proper.

3D In Re the Trust of Elaine A McLain (Trust)

Case No. 11CEPR00028

Atty Panzak, Gordon (for Jeff Dale/Successor Trustee – Petitioner)

Atty Pasto, James H. (of San Diego, for Debbie Duehning, Guardian Ad Litem for George McLain IV, Trust beneficiary)

Notice of Motion and Motion to Amend Petition

DOD: 5/26/08		<p>GEORGE MCLAIN, IV, through his Guardian ad Litem, DEBBIE DUEHNING, is Petitioner.</p> <p><u>Petition states:</u></p> <ul style="list-style-type: none"> Amendment to the original Petition is necessary to clarify that Jeffrey Dale is named as a respondent not only as an individual, but also in his capacity as trustee (Jeffrey Dale has refused to respond to discovery thus far, as he Petitioner's original Petition is directed at him as an individual) Petitioner should further be permitted to amend his petition to allege additional acts of the trustee which would constitute a breach of his fiduciary duties; Jeffrey Dale has served a First Account of his Trust activities, and, Petitioner believes that such activities (or lack thereof) furnish an additional basis for relief and should be included in the relief requests. Therefore, Petitioner requests the Court order the First Amended Petition (attached to Petition herein) be filed. <p><u>Points and Authorities (regarding amendments of pleadings) included in Petition</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 11/7/11. Minute Order states:</u> Mr. Panzak requests the case be continued. If counsel needs the court's assistance, the court is amenable to a conference call with both attorneys.</p> <p><u>NOTE:</u> This Motion to Amend concerns Petitioner's <i>Petition for for Order Compelling Trustee to Make Distribution to Trust Beneficiary; For Imposition of a Constructive Trust; and for an Accounting</i>, filed 4/6/11, and the subject of Page 3A.</p>
Cont. from 101111, 110711			
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Video Receipt			
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Status Rpt			
UCCJEA			
Citation			
FTB Notice			
Reviewed by: NRN			
Reviewed on: 1/13/12			
Updates:			
Recommendation:			
File 3D - McLain			

3D

Atty Matlak, Steven M. (for Petitioner Joseph Pedemonte)

Atty Nina Helgeson, Maria Pedemonte & Autustina Pedemonte, pro per Objectors

Petition to Appoint Successor Trustee

		JOSEPH PEDEMONTE , income beneficiary, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Continued from 11/14/11. Minute order states parties agree to appoint Bruce Bickel as successor trustee. Matter continued to 1/23/12; however, if parties can stipulate to a bond amount and bond is posted, then the matter on 1/23/2012 may be taken off calendar. As of 1/12/12 a bond has not been filed. For Petitioner: 1. Probate Code §15602 provides that when an individual who was not named as trustee in the instrument is appointed as trustee, the trustee must be bonded. The court may not excuse the requirement of a bond except under compelling circumstances. For Objectors: 1. There is nothing in the file to indicate the amount the bond should be set at.
		Petitioner states during his lifetime he is the sole income beneficiary of the AUGUSTINE J. PEDEMONTE TRUST dated April 13, 1983.	
Cont. from 042511, 060611, 072511, 091211, 111411		Eugene A. Zanardi was the initial trustee of the Trust. Eugene resigned on 7/31/1995. Named successor trustee, Diane Williams declined to act, thereby creating a vacancy. There are no other trustees named in the Trust instrument.	
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
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	Not.Cred.		
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	Letters		
	Duties/Supp		
✓	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

On 2/22/1996 Petitioner filed a Petition to Appoint Successor Trustee (Fresno Superior Court case no. 554667). As requested in the petition the court appointed Robert Garavello as successor trustee of the trust.

On or about 2/28/11 Robert Garavello signed a Resignation of Trustee, whereby Robert Garavello resigned as Trustee of the trust effective upon the occurrence of the earliest to occur of the following events: (i) the closing of the pending loan in the approximate amount of \$300,000 between Pedemonte Properties Inc., and tri-Counties Bank, which loan will be secured by the real property located at 7520 N. Palm Ave., Fresno. (ii) the appointment of a successor trustee of the Trust and related trust known as the Susan Pedemonte Trust, of which Robert Garavello is currently serving as trustee, or (iii) September 1, 2011.

The Trust requires that a vacancy in the office of trustee be filled. By an instrument in writing, Joseph Pedemonte, the beneficiary of the Trust, has nominated ROBERT S. SWANTON as successor Trustee to fill the vacancy, and said nominee has signed his consent.

The Trust waives bond for the persons named as trustee or any person appointed as trustee in the manner specified in the Trust.

Petitioner prays for an order:

1. Appointing ROBERT S. SWANTON as successor trustee of the Trust, investing with him all the powers vesting in the office of the trustee under the Trust.

Please see additional page for objections.

4 –additional page - Augustine J Pedemonte Trust (Trust)

Case No. 11CEPR00192

Objections to Petition to Appoint Successor Trustee, filed on 4/18/11 by Nina Helgeson, Maria Pedemonte and Augustina Pedemonte. Objectors state they are the grandchildren of the Trustor and remainder beneficiaries of the Trust. Objectors object to the appointment of the Nominated Successor Trustee (Robert S. Swanton) as the Successor Trustee of the Trust and desire to have someone appointed who will be fair and impartial to all the beneficiaries of the Trust.

Since the Trust only waives bond for the person named in the instrument at Article 6.01, any successor Trustee should be required to post bond in the statutory amount, unless a corporate Trustee or public agency is appointed as trustee of the Trust.

Instead of the Nominated Successor Trustee (Robert S. Swanton), Objectors hereby nominate in the place and stead of the resigning Trustee, either the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE or EDWIN D. HUFF, CPA of Fresno, California.

Wherefore, Objectors pray for an order of the Court as follows:

1. The appointment of ROBERT S. SWANTON, as Successor Trustee of the Trust be DENIED;
2. The court appoint the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE as successor Trustee of the Trust or in the alternative, the Court appoint EDWIN D. HUFF, CPA, as the Successor Trustee of the Trust;
3. The Court require that the Successor Trustee so appointed by the Court give bond in the statutory amount, unless appointed Successor Trustee is a corporate Trustee or Public Agency.

Supplemental Objection to Petition to Appoint Successor Trustee filed by Nina Helgeson, Maria Pedemonte and Augustina Pedemonte on 6/3/11 allege that the resigning Trustee was remiss in carrying out his fiduciary duties in the administration of the 1983 Trust in that the 1983 Trust was essentially being administered by the Petitioner rather than the Trustee, in the Petitioner's own interest and not in the interest of the Objectors.

The nominated successor Trustee is already acting Trustee of The Augustine J. Pedemonte Trust of 1990 ("1990 Trust"), which is a separate Trust from the above captioned 1983 Trust, but which about Objectors have not information other than being apprised of its existence in the Settlement Agreement. Objectors believe they are also beneficiaries of the 1990 Trust.

Objectors continue to object to the appointed of the Nominated Trustee and hereby nominate the Fresno County Public Guardian's Office or Edwin D. Huff, C.P.A. Objectors believe that the nominated successor Trustee no longer wished to act as trustee of the Trusts.

Wherefore, Objectors continue to pray for an order of the Court as follows:

4. The appointment of ROBERT S. SWANTON, as Successor Trustee of the Trust be DENIED;
5. The court appoint the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE as successor Trustee of the Trust or in the alternative, the Court appoint EDWIN D. HUFF, CPA, as the Successor Trustee of the Trust;
6. The Court require that the Successor Trustee so appointed by the Court give bond in the statutory amount, unless appointed Successor Trustee is a corporate Trustee or Public Agency.

Dept. 303, 9:00 a.m. Monday, January 23, 2012

Atty Matlak, Steven M. (for Petitioner Joseph Pedemonte)

Atty Nina Helgeson, Maria Pedemonte & Autustina Pedemonte pro per Objectors

Petition to Appoint Successor Trustee

		JOSEPH PEDEMONTE , income beneficiary, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner states during his lifetime he is the sole income beneficiary of the SUSAN PEDEMONTE TRUST dated April 13, 1983.	<p>Continued from 11/14/11. Minute order states parties agree to appoint Bruce Bickel as successor trustee. Matter continued to 1/23/12; however, if parties can stipulate to a bond amount and bond is posted, then the matter on 1/23/2012 may be taken off calendar. As of 1/12/12 a bond has not been filed.</p> <p>For Petitioner:</p> <p>2. Probate Code §15602 provides that when an individual who was not named as trustee in the instrument is appointed as trustee, the trustee must be bonded. The court may not excuse the requirement of a bond except under compelling circumstances.</p> <p>For Objectors:</p> <p>2. There is nothing in the file to indicate the amount the bond should be set at.</p>
Cont. from 042511, 060611, 072511, 091211, 111411		Eugene A. Zanardi was the initial trustee of the Trust. Eugene resigned on 7/31/1995. Named successor trustee, Diane Williams declined to act, thereby creating a vacancy. There are no other trustees named in the Trust instrument.	
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
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✓	Notice of Hrg		
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	Conf. Screen		
	Letters		
	Duties/Supp		
✓	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
		On 2/22/1996 Petitioner filed a Petition to Appoint Successor Trustee (Fresno Superior Court case no. 554665). As requested in the petition the court appointed Robert Garavello as successor trustee of the trust.	
		On or about 2/28/11 Robert Garavello signed a Resignation of Trustee, whereby Robert Garavello resigned as Trustee of the trust effective upon the occurrence of the earliest to occur of the following events: (i) the closing of the pending loan in the approximate amount of \$300,000 between Pedemonte Properties Inc., and tri-Counties Bank, which loan will be secured by the real property located at 7520 N. Palm Ave., Fresno. (ii) the appointment of a successor trustee of the Trust and related trust known as the Susan Pedemonte Trust, of which Robert Garavelle is currently serving as trustee, or (iii) September 1, 2011.	
		The Trust requires that a vacancy in the office of trustee be filled. By an instrument in writing, Joseph Pedemonte, the beneficiary of the Trust, has nominated ROBERT S. SWANTON as successor Trustee to fill the vacancy, and said nominee has signed his consent.	
		The Trust waives bond for the persons named as trustee or any person appointed as trustee in the manner specified in the Trust.	
		Petitioner prays for an order:	
		2. Appointing ROBERT S. SWANTON as successor trustee of the Trust, investing with him all the powers vesting in the office of the trustee under the Trust.	
		<i>Please see additional page for objections.</i>	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: KT
			Reveiwed on: 1/12/12
			Updates:
			Recommendation:
			File 5 - Pedemonte

Objections to Petition to Appoint Successor Trustee, filed on 4/18/11 by Nina Helgeson, Maria Pedemonte and Augustina Pedemonte. Objectors state they are the grandchildren of the Trustor and remainder beneficiaries of the Trust. Objectors object to the appointment of the Nominated Successor Trustee (Robert S. Swanton) as the Successor Trustee of the Trust and desire to have someone appointed who will be fair and impartial to all the beneficiaries of the Trust.

Since the Trust only waives bond for the person named in the instrument at Article 6.01, any successor Trustee should be required to post bond in the statutory amount, unless a corporate Trustee or public agency is appointed as trustee of the Trust.

Instead of the Nominated Successor Trustee (Robert S. Swanton), Objectors hereby nominate in the place and stead of the resigning Trustee, either the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE or EDWIN D. HUFF, CPA of Fresno, California.

Wherefore, Objectors pray for an order of the Court as follows:

7. The appointment of ROBERT S. SWANTON, as Successor Trustee of the Trust be DENIED;
8. The court appoint the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE as successor Trustee of the Trust or in the alternative, the Court appoint EDWIN D. HUFF, CPA, as the Successor Trustee of the Trust;
9. The Court require that the Successor Trustee so appointed by the Court give bond in the statutory amount, unless appointed Successor Trustee is a corporate Trustee or Public Agency.

Supplemental Objection to Petition to Appoint Successor Trustee filed by Nina Helgeson, Maria Pedemonte and Augustina Pedemonte on 6/3/11 allege that the resigning Trustee was remiss in carrying out his fiduciary duties in the administration of the 1983 Trust in that the 1983 Trust was essentially being administered by the Petitioner rather than the Trustee, in the Petitioner's own interest and not in the interest of the Objectors.

The nominated successor Trustee is already acting Trustee of The Augustine J. Pedemonte Trust of 1990 ("1990 Trust"), which is a separate Trust from the above captioned 1983 Trust, but which about Objectors have not information other than being apprised of its existence in the Settlement Agreement. Objectors believe they are also beneficiaries of the 1990 Trust.

Objectors continue to object to the appointed of the Nominated Trustee and hereby nominate the Fresno County Public Guardian's Office or Edwin D. Huff, C.P.A. Objectors believe that the nominated successor Trustee no longer wished to act as trustee of the Trusts.

Wherefore, Objectors continue to pray for an order of the Court as follows:

10. The appointment of ROBERT S. SWANTON, as Successor Trustee of the Trust be DENIED;
11. The court appoint the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE as successor Trustee of the Trust or in the alternative, the Court appoint EDWIN D. HUFF, CPA, as the Successor Trustee of the Trust;
12. The Court require that the Successor Trustee so appointed by the Court give bond in the statutory amount, unless appointed Successor Trustee is a corporate Trustee or Public Agency.

DOD: 2/13/11		JUDITH LYNN ASHLEY, Executor, is petitioner. Accounting is waived. I & A - \$416,150.20 POH - \$416,150.20 Executor - waives Attorney - waives Distribution pursuant to Decedent's Will and Codicil is to: Judith Lynn Ashely - Merrill Lynch account with a balance of \$412,882.30 and cash in the sum of \$3,267.90	NEEDS/PROBLEMS/COMMENTS:	
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
✓	Inventory			
✓	PTC			
✓	Not.Cred.			
✓	Notice of Hrg			
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	Objections			
	Video Receipt			
	CI Report			
✓	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
✓	FTB Notice			
			Reviewed by: KT	
			Reviewed on: 1/12/12	
			Updates:	
			Recommendation: SUBMITTED	
			File 6 - Lewis	

Atty Lambert, Arthur (pro per – maternal great-uncle/Petitioner)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Windell, 11 DOB: 3/2/00	<u>TEMPORARY EXPIRES 01/23/12</u>	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 11/21/11</u> Temporary was granted as to Windell & Windaisha only. As of 01/12/12, the following remains outstanding: 1. Need Notice of Hearing . 2. Need proof of personal service of Notice of Hearing with a copy of the Petition at least 15 days before the hearing <u>or</u> Consent and Waiver of Notice for: - Windell Lightle, Sr. (father of Windell & Windaisha) - Kenneth Colter (father of Daveoon) <i>Declarations of Due Diligence filed 12/20/11 state that Petitioner has been unable to make contact with either father.</i> 3. Need proof of service by mail of Notice of Hearing with a copy of the Petition at least 15 days before the hearing <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence for: - Paternal grandparents (unknown) - Dennis Eley (maternal grandfather) <i>Declarations of due diligence filed 12/20/11 state that the Petitioner has been unable to locate contact information for Joyce Thomas (Daveeon's paternal grandmother), and that the maternal grandfather, Dennis Eley, resides out of state and the Petitioner has not had contact with him.</i>
Windaisha, 8 DOB: 3/21/03	ARTHUR LAMBERT, maternal great-uncle, is petitioner.	
Daveeon, 4 DOB: 6/26/07	Windell and Windaisha's father: WINDELL LIGHTLE, SR. – <i>declaration of due diligence filed 12/20/11</i>	
Cont. from 112111	Daveeon's father: KENNETH COLTER – <i>declaration of due diligence filed 12/20/11</i>	
Aff.Sub.Wit.	Mother: JACQUELLA ELEY - <i>deceased</i>	
✓ Verified	Windell & Windaisha's paternal grandparents: UNKNOWN	
Inventory	Daveeon's paternal grandfather: UNKNOWN	
PTC	Daveeon's paternal grandmother: JOYCE THOMAS – <i>declaration of due diligence filed 12/20/11</i>	
Not.Cred.	Maternal grandfather: DENNIS ELEY – <i>declaration of due diligence filed 12/20/11</i>	
Notice of Hrg	Maternal grandmother: DECEASED	
Aff.Mail	Petitioner states on 8/14/11 the children's mother called him and asked if he could become the guardian of her children in the event she died. Mom died on 8/21/11. The father of the youngest child was incarcerated when he was born and is currently on parole. The youngest child's father has a mental disability and is on SSI and may not be able to take care of the child. The older children have not seen their father for the last 6-7 years. Neither of the fathers has financially supported the children.	
Aff.Pub.	Court Investigator Samantha Henson's report was filed 11/10/11	
Sp.Ntc.	Court Investigator Samantha Henson's report filed - WAITING FOR UPDATED REPORT.	
Pers.Serv.		
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✓ Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		
		Reviewed by: JF Reviewed on: 01/12/12 Updates: Recommendation: File 8 – Lightle & Colter

Petition for Order Confirming Trust Assets; Petition for Instructions [Prob. C. §850 (a)(3); Prob. C. §17200, et seq.]

Edward Dorothy Salazar DOD: 6-23-11		RUDOLFO DIEGO SALAZAR , acting Trustee of the Edward Dorothy Salazar Living Trust dated 10-11-10 (the "2010 Trust"), is Petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. In addition to the assets specifically referenced in "Annex A" of the 2010 Trust, Petitioner requests the order include unspecified assets "inadvertently omitted" or "now known or unknown and/or acquired after the date of this Petition." <u>The Court cannot confirm unspecified assets not included in the trust schedule. Such assets may be subject to probate estate administration.</u> <i>Examiner notes that if the Court orders that the 1996 documents are revoked as requested, and there are assets later discovered that cannot be confirmed to the 2010 Trust per above, such assets may be subject to <u>intestate</u> probate estate administration.</i> <i>Examiner notes alternatively that if the 1996 documents are not revoked by the Court, it appears that such potential estate could be administered as testate, but would have a slightly different heir structure than the 2010 Trust.</i>																																																																				
<table border="1"> <tr><td></td><td>Aff.Sub.Wit.</td><td></td></tr> <tr><td>✓</td><td>Verified</td><td></td></tr> <tr><td></td><td>Inventory</td><td></td></tr> <tr><td></td><td>PTC</td><td></td></tr> <tr><td></td><td>Not.Cred.</td><td></td></tr> <tr><td>✓</td><td>Notice of Hrg</td><td></td></tr> <tr><td>✓</td><td>Aff.Mail</td><td>W</td></tr> <tr><td></td><td>Aff.Pub.</td><td></td></tr> <tr><td></td><td>Sp.Ntc.</td><td></td></tr> <tr><td></td><td>Pers.Serv.</td><td></td></tr> <tr><td></td><td>Conf. Screen</td><td></td></tr> <tr><td></td><td>Letters</td><td></td></tr> <tr><td></td><td>Duties/Supp</td><td></td></tr> <tr><td></td><td>Objections</td><td></td></tr> <tr><td></td><td>Video Receipt</td><td></td></tr> <tr><td></td><td>CI Report</td><td></td></tr> <tr><td></td><td>9202</td><td></td></tr> <tr><td>✓</td><td>Order</td><td></td></tr> <tr><td></td><td>Aff. Posting</td><td></td></tr> <tr><td></td><td>Status Rpt</td><td></td></tr> <tr><td></td><td>UCCJEA</td><td></td></tr> <tr><td></td><td>Citation</td><td></td></tr> <tr><td></td><td>FTB Notice</td><td></td></tr> </table>				Aff.Sub.Wit.		✓	Verified			Inventory			PTC			Not.Cred.		✓	Notice of Hrg		✓	Aff.Mail	W		Aff.Pub.			Sp.Ntc.			Pers.Serv.			Conf. Screen			Letters			Duties/Supp			Objections			Video Receipt			CI Report			9202		✓	Order			Aff. Posting			Status Rpt			UCCJEA			Citation			FTB Notice	
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File	11 - Salazar																																																																						

**Petition for Order Approving Modification of Trust Terms Under Probate Code
15404(b), 15409 and 17200(b)(13)**

			<p>PAUL MON PERE, beneficiary, is petitioner.</p> <p>Petitioner states the Trust was established by Petitioner's father Gerald V. Mon Pere on 1/14/1992. The Irrevocable Trust is a life insurance trust which will be funded by a life insurance policy on the life of the Settlor upon the Settlor's death.</p> <p>The Irrevocable Trust provides that upon the termination of the Trust, the Trustee shall divide into as many equal shares as there are Settlor's living children and deceased children leaving issue.</p> <p>Petitioner seeks an order authorizing the modification of the Irrevocable Trust so that any share passing to the Settlor's son, Philip Mon Pere will be held in a third party special needs trust.</p> <p>Petitioner states Philip suffers from severe depression and bipolar disorder and as a result receives SSI and Medi-Cal.</p> <p>Upon the Settlor's death Philip would lose his SSI and Medi-Cal benefits unless the assets were directed into a third party special needs trust (SNT). A third party SNT is an SNT established with assets of someone other than the government benefits recipient and is subject to different requirements from a first party SNT, which is an SNT funded with the recipient's own money.</p> <p>Petitioner states the Settlor intended that the Irrevocable Trust preserve assets for Philip's benefit throughout his life. When the Trust was created Philip did not have a disability, and the Settlor could not have predicted the need for an SNT. Had Philip's disability been a present at the time of creating the Irrevocable Trust, the Settlor could have learned that the Irrevocable Trust would have jeopardized Philip's benefits.</p> <p><i>Please see additional page</i></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Order</p>
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	FTB Notice			

Petitioner wishes to modify the distribution portion of the Irrevocable Trust so that it will not disqualify Philip from his needs-based public benefits.

Petitioner requests modification of the Trust after the sentence in Paragraph C of ARTICLE THIRD which reads, "Each share so apportioned shall be distributed outright and free of Trust to any child of the Settlor who is then living," the requested modification would insert the following sentence: "PROVIDED, HOWEVER, if PHILIP MON PERE ("PHILIP") is then living, the trustee shall allocate PHILIP'S share to a special needs trust (hereinafter, "Special Needs Trust") for the benefit of PHILIP, which Special Needs Trust shall be retained, administered and distributed as provided in paragraph E. of this ARTICLE THIRD." The requested modification would also add a new paragraph E to ARTICLE THIRD, detailing the terms of the Special Needs Trust. [*The terms of the trust have been provided in the petition.*]

Wherefore, Petitioner prays for and Order of this Court:

1. Finding that all notices have been given according to law;
2. Approving the modification of the Irrevocable Trust as requested in the Petition.

Declaration of Settlor Gerald V. Mon Pere in Support of Petition is attached to the Petition.

Petition for Probate of Will and for Letters of Administration with Will Annexed;
Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 09/27/07			JIMMIE DALE REIS , son, is Petitioner, and requests appointment as Administrator with Will Annexed without bond. Full IAEA – NEED Will dated 12/10/77 Residence: Laton Publication: NEED <u>Estimated Value of the</u> Estate: \$0.00 Probate Referee: STEVEN DIEBERT	NEEDS/PROBLEMS/COMMENTS: 1. Need Affidavit of Publication. 2. Will is not self-proving. Need Affidavit of Subscribing Witness. 3. Item 8 of the Petition does not state each party's relationship to the decedent. 4. The Petition states that the decedent had a deceased spouse, Henry F. Reis, Sr., however Mr. Reis' name is listed in item 8 of the Petition with an address in Laton. Need clarification. 5. If the decedent's spouse, Henry Reis, Sr. is deceased, his name and date of death should be listed in item 8 of the Petition pursuant to Local Rule 7.1.1D. 6. Petitioner is requesting to be appointed as Administrator with Will annexed without bond, stating that the Will waives bond. However, the Will only waives the requirement of bond to the individuals named as Executor or alternate Executors in the Will. Need waivers of bond from all beneficiaries. 7. The Petition states that the value of the estate is \$0.00. Pursuant to Probate Code § 8002(a)(4) the Petition is to state the character and estimated value of the property in the estate. Need clarification.
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	Citation			
	FTB Notice			
			Reviewed by: JF Reviewed on: 01/12/12 Updates: Recommendation: File 13 - Reis	

Atty Bagdasarian, Gary G. (for Mace Norris – son/Petitioner)

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 10/09/11		MACE NORRIS , son and named Executor without bond, is Petitioner. Full IAEA – NEED Will dated 08/26/11 Residence: Fresno Publication: NEED <u>Estimated Value of the Estate:</u> Personal property - \$ 20,000.00 Real property - 423,000.00 Total - \$443,000.00 Probate Referee: RICK SMITH	NEEDS/PROBLEMS/COMMENTS: 1. Need Affidavit of Publication.
Cont. from			
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✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
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	Citation		
	FTB Notice		
		Reviewed by: JF Reviewed on: 01/13/12 Updates: Recommendation: File 14 - Norris	

**Probate Status Hearing Re: Filing of First Account or Petition for Final Distribution
(Prob. C. §12200, et seq.)**

DOD: 8/31/2010		<p>PAUL A. FILLION was appointed as Executor of the Estate with full IAEA Authority and without bond on 11/15/10.</p> <p>Corrected I & A filed on 9/23/11 showing the estate value as \$125,000.00</p> <p>First account or petition for final distribution was due 11/15/11.</p> <p>This status hearing was set for the filing of the first account or petition for final distribution.</p> <p>A copy of the Notice of Status Hearing was mailed to Paul A. Fillion on 9/26/11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need current status report, first account or petition for final distribution.</p> <p><u>Note:</u> Paul A. Fillion was formerly represented by Attorney John Barrus. Mr. Barrus filed a substitution of attorney on 9/22/11.</p>
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		<p>Reviewed by: KT</p> <p>Reviewed on: 1/12/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 15 - Fillion</p>	

**Status Hearing Re: Proof of Guardianshp in Arizona and Termination of the
California Guardianship**

Age: 15 years DOB: 1/18/1997	IRENE SHREFFLER , maternal grandmother/guardian, petitioned the court to fix the residence outside of California to Kingman, Arizona. Irene Shreffler was appointed guardian of the person on 9/20/06. Father: GEORGE PLESH Mother: DENISE LEMEN On 7/25/11 the Court granted the petition to move the minor to Arizona ordered that a guardianship or its equivalent would be commenced in Arizona within four months of the order.	NEEDS/PROBLEMS/COMMENTS: 1. Need status of guardianship proceedings in Arizona.
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Citation		
FTB Notice		
Reviewed by: KT		
Reviewed on: 1/12/12		
Updates:		
Recommendation:		
File 16 - Shreffler		

Cesar Gonzalez Age: 8 years DOB: 11/22/2003		CONCEPCION HERNANDEZ MINISTRO, Mother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 11/14/11. Minute Order states:</u> Petition is approved as to Marco Hernandez only. The matter is continued as to Cesar Gonzalez only. Per Petitioner, Marco is in Pennsylvania. <u>The court has not received a report from Los Angeles, CA re: Cesar.</u>
Marco Hernandez Age: 10 years DOB: 11/30/01			
Cont. from 101711, 111411		Isidoro Sanchez and Elizabeth Sanchez, non-relative family friends, are the current guardians. They were appointed guardians of the minor Cesar Gonzalez on 9/28/09, and were appointed guardians of the minor Marco Hernandez on 3/22/10. <u>Cesar and Marco are brothers.</u>	
Aff.Sub.Wit.			
✓ Verified		Guardians were sent notice by mail on 10/5/2011. Father: OCTAVIO LAZARO GONZALEZ ARANA ; sent notice by mail 10/5/2011	
Inventory			
PTC		Paternal grandfather: Alvaro Gonzalez Fentunez, <i>deceased</i> Paternal grandmother: Maria Ocotlan Arana Luna; sent notice by mail 10/5/2011; Maternal grandfather: Alvaro Hernandez Garcia; sent notice by mail 10/5/2011; Maternal grandmother: Maria Gonzalez Ministro; sent notice by mail 10/5/2011;	
Not.Cred.			
✓ Notice of Hrg		Petition states the guardianship should be terminated in order to reunite the family once again.	
✓ Aff.Mail	w/o		
Aff.Pub.		<u>Court Investigator Julie Negrete's report, filed 10/17/11</u> .	
Sp.Ntc.			
Pers.Serv.		<u>L.A. County Court Investigator Robert Nigro's report, filed 11/9/11.</u>	
Conf. Screen			
Letters		<u>Julie Negrete's report, filed 11/10/11.</u>	
Duties/Supp			
Objections		<u>**NEED L.A. County Court Investigator Report re: Cesar</u>	
Video Receipt			
CI Report	X		
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
			Reviewed by: NRN Reviewed on: 1/13/12 Updates: Recommendation: File 17 – Gonzalez & Hernandez

18 Aaliyah Morales, Talaya Young, Edward Young, Jr. & Kaziya Lewis
(GUARD/P) Case No. 10CEPR00525
 Atty Gutierrez, Mary Ann (pro per Petitioner/family friend)
 Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Aaliyah age: 9 years DOB: 1/23/2003		THERE IS NO TEMPORARY. No Temporary was requested. MARY ANN GUTIERREZ , family friend, is petitioner. Aaliyah's father: CIRO MORALES - Declaration of due diligence filed on 11/28/11. Talaya and Edward's father: EDWARD YOUNG Kaziya's father: UNKNOWN - Declaration of due diligence filed on 11/14/11. Mother: FELICIA YOLANDA LUNA - Consents and waives notice. Aaliyah's paternal grandparents - unknown Talaya and Edwards' paternal grandparents - unknown Kaziya's paternal grandparents - unknown - Declaration of due diligence filed on 11/28/11. Maternal grandfather : Deceased Maternal grandmother: Josie Alvarez - consents and waives notice. Petitioner states custodial parent is unable to provide housing for the children.	NEEDS/PROBLEMS/COMMENTS:	
Talaya age: 5 years DOB: 6/9/2006			Note: Declaration filed by Petitioner on 11/29/11 states mother has decided to keep Talaya and Edward with her. It is unclear if the Petitioner is intending to amend her petition to only include minors Aaliyah and Kaziya. File includes two orders one for all four minors and one for Aaliyah and Kaziya only. 1. Need Notice of Hearing. 2. Need proof of personal service of the Notice of Hearing along with a copy of the Petitioner or Consent and Waiver of Notice or Declaration of Due Diligence on: a. Ciro Morales (Aaliyah's father) - unless the court dispenses with notice. (Note: Petition states father is incarcerated in Arizona for life). b. Edward Young (Talaya and Edward's father) c. Unknown father of Kaziya - unless the court dispenses with notice. 3. Need proof of service of the Notice of Hearing along with a copy of the Petitioner or Consent and Waiver of Notice or Declaration of Due Diligence on: a. Aaliyah's paternal grandparents b. Talaya and Edward's paternal grandparents c. Kaziya's paternal grandparents - unless the court dispenses with notice. Court Investigator Samantha Henson to provide: 1. Court Investigator's Report 2. Clearances	
Edward age: 3 years DOB: 2/13/2008				
Kaziya age: 1 year DOB: 8/15/10				
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
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	Notice of Hrg	X		
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✓	UCCJEA			
	Citation			
	FTB Notice			
		Reviewed by: KT		
		Reviewed on: 1/12/12		
		Updates:		
		Recommendation:		
		File 18 - Morales, Young & Lewis		

Age: 2 years DOB: 11/11/09		<p><u>TEMPORARY EXPIRES 1/23/2012</u></p> <p>STACIE RUMMELT-SANDRIK, maternal aunt, is Petitioner.</p> <p>Estimated value of the Estate: Unknown</p> <p>Father: JEREMY STEELE – <i>consents and waives notice.</i></p> <p>Mother: AMANDA STEELE – <i>consents and waives notice.</i></p> <p>Paternal grandfather: Edward Steele Paternal grandmother: Shannon Steele– <i>consents and waives notice.</i></p> <p>Maternal grandfather: John Emberton– <i>consents and waives notice.</i></p> <p>Maternal grandmother: Cindy Samath– <i>consents and waives notice.</i></p> <p>Petitioner states that Joshua has special needs and his parents are not able to care for him and also care for their other children. Petitioner states that Joshua has lived with her since April 2011 and that his parents and grandparents agree with the arrangement. Petitioner states that she intends to get Joshua all available assistance that will allow him to develop to the highest mental and physical level possible.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> Petition also request that petitioner be appointed as guardian of the estate. The estimated value of the estate is unknown. Petition does not state why guardianship of the estate is necessary. Petitioner does not need a guardianship of the estate to be able to access public benefits. Need <i>Notice of Hearing</i>. Need proof of service of the <i>Notice of Hearing or consent and waiver of notice or declaration of due diligence</i> on: <ol style="list-style-type: none"> Edward Steele (paternal grandfather) <p>Court Investigator Jennifer Daniel to provide:</p> <ol style="list-style-type: none"> Court Investigator's Report Clearances 	
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<input type="checkbox"/>	Citation			
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		<p>Reviewed by: KT</p> <p>Reviewed on: 1/13/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 19 – Steele</p>		

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 7 months DOB: 06/08/11		<u>TEMPORARY EXPIRES 01/23/12</u>		NEEDS/PROBLEMS/COMMENTS:	
		SANDRA HINTON, maternal grandmother, is Petitioner.		<ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i>. 2. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Guardianship</i> <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence for: - Desiree Hinton-Walls (mother) 3. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Guardianship</i> <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence for: - Paternal grandparents (unknown) - Alvin Walls (maternal grandfather) 	
		Father: JOSE RODRIQUEZ – <i>court dispensed with notice on 12/05/11</i>			
Cont. from		Mother: DESIREE HINTON-WALLS			
	Aff.Sub.Wit.	Paternal grandparents: UNKNOWN			
✓	Verified	Maternal grandfather: ALVIN WALLS			
	Inventory	Petitioner states that Zyla's mother is currently an inpatient at a psychiatric hospital and has been diagnosed with Post-Partum Psychosis. Mother has made a plan for the Petitioner to care for Zyla until she recovers from her illness. The father's whereabouts are unknown.			
	PTC	Court Investigator Charlotte Bien's report was filed 01/04/12.			
	Not.Cred.				
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	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 01/13/12	
				Updates:	
				Recommendation:	
				File 20 - Rodriguez	

Atty Kasparowitz, Lawrence (Pro Per – Maternal Grandfather – Petitioner)

Atty Millard, Maryl (Pro Per – Maternal Grandmother – Petitioner)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Jasmyne (6) DOB: 7-9-05		TEMPORARY EXPIRES 1-23-12 LAWRENCE A. KASPAROWITZ and MARYL MILLARD, Maternal Grandparents, are Petitioners. Father: DAVID PATRICK MINTON <i>- Nomination, Consent, and Waiver of Notice filed 11-28-11</i> Mother: LARA MARIE MINTON <i>- Nomination, Consent, and Waiver of Notice filed 11-22-11</i> Paternal Grandfather: Clyde Minton Paternal Grandmother: Sheila Minton Petitioners state the children need a relatively long term guardianship because the parents need time to be in a position to provide a safe environment. The parents have had seven years of drug and alcohol abuse, domestic violence, inadequate care and supervision of the children. Petitioners state the parents voluntarily placed the children with them in July of 2011. The children have lived on their property most of their lives and have close attachment to them. Jasmyne has lived with Petitioners since a restraining order was placed with reference to an assault on Jasmyne in 2010. The temporary petition states the father was convicted in December 2010 of felony child abuse on Jasmyne (his second felony conviction). CPS placed all of the children with Petitioners in July and urged Petitioners to obtain guardianship. The temporary petition contains descriptions of the domestic abuse by the father. Court Investigator Jo Ann Morris to provide report, clearances.	NEEDS/PROBLEMS/COMMENTS: <u>Court Investigator to provide report, clearances.</u> 1. Petitioners' requests to waive Court fees were denied on 11-23-11. Filing fees of \$265.00 are now due. 2. Need Notice of Hearing. 3. Need proof of service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 or consent and waiver of notice on: - Clyde Minton (Paternal Grandfather) - Sheila Minton (Paternal Grandmother)
Rose Marie (5) DOB: 11-6-06			
Ryan (3) DOB: 1-31-08			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
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	Notice of Hrg	X	
	Aff.Mail	X	
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	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report	X	
	Clearances	X	
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		

Pro Per
Pro Per

Rodriguez, Rigoberto (Pro Per Petitioner, paternal grandfather)
De Rodriguez, Araceli Morales (Pro Per Petitioner, paternal grandmother)

Petition for Appointment of Temporary Guardian of the Person (Prob. C. 2250)

Age: 12 years		<p align="center"><u>General Hearing set for 3/7/2012</u></p> <p>RIGOBERTO RODRIGUEZ and ARACELI MORALES DE RODRIGUEZ, paternal grandparents, are Petitioners.</p> <p>Father: SAID RODRIGUEZ</p> <p>Mother: JUDITH RAMOS</p> <p>Maternal grandfather: <i>Not listed</i> Maternal grandmother: Sofia Ramos</p> <p>Petitioners state:</p> <ul style="list-style-type: none"> The mother removed the child from school maliciously and has absconded to Palm Springs with the child without the knowledge of the paternal relatives; They are afraid for the welfare of the child, and they need immediate guardianship to protect the child, as the mother abuses medications and drinks alcohol and she has not been stable; The mother's live-in boyfriend is a known felon, was just released from prison, and was paroled to Riverside County; The mother has kept the child from the paternal family since prior to the holidays; they received a call on 1/2/2012 from the child crying and distraught saying he wants to come home and his mother was hitting him; The child lived with them for half of his life and he stayed with them every weekend, and they have played an active role in raising the child until he was 6 years old. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: <i>UCCJEA</i> filed 1/5/2012 states that as of 11/31/2011, the child lives with the mother in Palm Springs, CA.</p> <p>1. Need Notice of Hearing, and proof of five (5) court days' notice by personal service of the Notice of Hearing with a copy of the Petition for Appointment of Temporary Guardian, or Consent to Appointment of Guardian and Waiver of Notice, or a Declaration of Due Diligence, for:</p> <ul style="list-style-type: none"> Judith Ramos, mother; Said Rodriguez, father; Isaiah Rodriguez, proposed ward. 	
DOB: 6/20/1999				
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	Aff.Sub.Wit.			
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	Inventory			
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	Notice of Hrg			X
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✓	Duties/Supp			
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	CI Report			
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✓	Order			
✓	Letters			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: LEG
Reviewed on: 1/12/11
Updates:
Recommendation:
File 21 - Rodriguez

Atty Roberts, Youngae "Ann" (pro per – maternal grandmother/Petitioner)

Atty Roberts, Kenneth Jr. (pro per – maternal grandfather/Petitioner)

Petition for Appointment of Temporary Guardian of the Person (Prob. C. 2250)

Saede, 5 DOB: 11/17/06		<p><u>TEMPORARY GRANTED EX PARTE;</u> <u>EXPIRES 01/19/12</u></p> <p><u>GENERAL HEARING 03/07/12</u></p> <p>KENNETH ROBERTS and YOUNGAE ROBERTS, maternal grandparents, are Petitioners.</p> <p>Father (Saede): MARCOS GALVAN Father (Jaeden): OSIRIS PULIDO – <i>declaration of due diligence filed 01/05/12</i></p> <p>Mother: SARAH ROBERTS – <i>deceased</i></p> <p>Paternal grandparents: UNKNOWN</p> <p>Petitioners state that the children's mother was murdered 01/01/12. Neither child's father has been involved in the children's lives. The Petitioners state that they have an ongoing loving relationship with the children and the children are familiar and comfortable in their home. Petitioners state that Jaeden's father agrees that it is best for Jaeden to be with them during this difficult time, but Saede's father removed her from their home. Petitioners state that Saede does not know her father as he has had no contact with her for over two years. Petitioners state that Saede expressed fear and discomfort at having to leave Petitioners home.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i>. 2. Need proof of personal service of <i>Notice of Hearing</i> with a copy of the <i>Petition for Temporary Guardianship or Consent and Waiver of Notice or Declaration of Due Diligence</i> for: - Marcos Galvan (Saede's father) - Osiris Pulido (Jaeden's father)* * A Declaration of Due Diligence was filed 01/05/12 regarding Mr. Pulido stating that the petitioners have not seen him since before Jaeden was born. 3. The General Guardianship Petition is missing a Child Information Attachment for Jaeden. 	
Jaeden, 3 DOB: 08/09/08				
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			x
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			x
✓	Conf. Screen			
	Letters			x
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	x		
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
		<p>Reviewed by: JF</p> <p>Reviewed on: 01/12/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 22 – Galvan & Roberts</p>		

Pro Per

Lehman, Lorilla Fonda (Pro Per Petitioner, great aunt)

**Petition for Appointment of Probate Conservator of the Person (Prob. C. 1820, 182
2680-2682)**

Age: 27 years		<p align="center">NO TEMPORARY REQUESTED</p> <p>LORILLA FONDA LEHMAN, great aunt, is Petitioner and requests appointment as Conservator of the Person with medical consent powers.</p> <p>Need Capacity Declaration</p> <p>Petitioner states the proposed Conservatee is developmentally disabled and diagnosed with severe mental retardation, cerebral palsy, and has the mental capacity of two to three-year-old child due to her mother abusing drugs during pregnancy. Petitioner states the proposed Conservatee has been under Petitioner's care for ~14 years. Petitioner states she only recently learned that the proposed Conservatee is currently five months pregnant, as she has hidden her pregnancy well, and she is in desperate need of prenatal care, to which she has thus far refused to consent and has not received. Petitioner states the proposed Conservatee's mental status prevents her from understanding the repercussions of her refusal to consent to prenatal care for the baby, she is unable to understand what the doctor is trying to explain about an exam for checking the viability of the baby, and the doctor has been unable to perform any type of procedure due to proposed Conservatee's refusal. Petitioner states the proposed Conservatee needs to have someone to watch her daily for the remainder of her life.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Investigator Samantha Henson to provide <i>Advisement of Rights</i> and <i>CI Report</i>.</p> <ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i> and proof of service by mail of the notice with a copy of the <i>Petition</i> showing notice was mailed at least 15 days before the hearing pursuant to Probate Code § 1822 for the following persons: <ul style="list-style-type: none"> • Violet Morrow, mother; • Brandon Morrow, brother; • Joyce Ferrero, grandmother. 2. Need <i>Citation for Conservatorship</i> pursuant to Probate Code § 1823, and proof of personal service of the <i>Citation</i> pursuant to Probate Code § 1824. 3. Need proof of mailed service of the <i>Notice of Hearing</i> with a copy of the petition for the regional center pursuant to Probate Code § 1822(e). 4. Petition requests medical consent powers. Need <i>Medical Capacity Declaration</i> (Judicial Council form GC-335). 5. Need <i>Video Viewing Certificate</i> pursuant to Local Rule 7.15.9(A).
DOB: not stated			
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	X		
Aff.Mail	X		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.	X		
✓ Conf. Screen			
Aff. Posting			
✓ Duties/Supp			
Objections			
Video Receipt	X		
CI Report	X		
9202			
✓ Order			
✓ Letters			
Status Rpt			
UCCJEA			
Citation	X		
FTB Notice			
Reviewed by: LEG			
Reviewed on: 1/12/12			
Updates:			
Recommendation:			
File 22 - Morrow			

First Report and Account of Trustee; Petition for Its Settlement and Allowance of Attorney's Fees; Petition for Reimbursement of Expenses

Age: 8 DOB: 10-31-03	MARIA ALVAREZ-GARCIA , Maternal Grandmother, Guardian and Trustee of the Special Needs Trust, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>SEE PAGE 2</u>
	Account period: 6-4-10 through 10-18-11	
Cont. from 010912	Accounting: \$208,497.05 Beginning POH: \$100,000.00 Ending POH: \$142,460.82 (cash only)	
<input type="checkbox"/> Aff.Sub.Wit.	Reimburse Conservator: \$1,897.09 for expenses associated with a vehicle (maintenance, registration, insurance) and expenses associated with travel to UCLA Medical Center.	
<input checked="" type="checkbox"/> Verified	Attorney: \$3,249.00 (11 hours @ \$295.00/hr)	
<input type="checkbox"/> Inventory	Costs: \$555.00 (filing fees)	
<input type="checkbox"/> PTC	Petitioner requests that further reports and accounts be waived since trust funds are invested in a blocked account and annuity payments are made directly to that account. The trustee is not receiving any fees.	
<input type="checkbox"/> Not.Cred.	Petitioner states that special needs include insurance and gasoline for vehicles and travel needs, and requests reimbursement for expenses associated with a vehicle and with travel to UCLA Medical Center.	
<input type="checkbox"/> Notice of Hrg		
<input type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice	Petitioner requests an order: 1. Settling, allowing and approving this first report and account; 2. Ratifying and approving all acts and transactions of the trustee as set forth in this account; 3. Authorizing payment of the attorney fees and costs; 4. Authorizing reimbursement to herself per above; 5. Waiving future accountings because funds are held in a blocked account.	Reviewed by: skc Reviewed on: 12-23-11 Updates: 1-11-12 Recommendation: File 23 - Carbajal

First Report and Account of Trustee; Petition for Its Settlement and Allowance of Attorney's Fees; Petition for Reimbursement of Expenses

NEEDS/PROBLEMS/COMMENTS (Continued):

1. The trust was originally funded with cash and with an annuity that pays approx. \$1,150.00 monthly. Schedule E Property on Hand lists only the cash held in the trust account. The annuity and its value should also be listed as an asset of the trust.

Declaration of Attorney Herold filed 1-10-12 states that the trust receives payments but is not the owner of the annuity. The owner is a third party administrator – Assigned Settlement Services Corporation.

Examiner notes that this is not a typical situation (that the trust does not own the annuity, and that the owner is a third party administrator). Why does a third party administrator own the annuity? Was there another transaction involving the annuity separate from the civil settlement from which it was received, such as a sale of the annuity to a settlement company? The Court may require further clarification.

2. It appears major purchases/disbursements were made and attorney fees paid without prior authorization from this Court. The trust was brought under the jurisdiction of this Probate Court on 8-30-10. Petitioner refers to court orders dated 10-27-10 and 5-17-11 authorizing withdrawal for certain items; however, there is no documentation in this file regarding such authorization. Were these items authorized by another Court? If so, it appears that such petition and authorization may be inappropriate.

Need clarification regarding the following items with reference to the following notes:

- Vehicle \$48,493.07
- Car Audio \$950.00
- TV and Computer \$2,322.25
- Attorney Fees \$1,746.50 (Bolen Fransen LLP)
- Attorney Fees \$3,704.92 (Camp Rousseau Montgomery LLP)
- Attorney Costs \$1,363.00 (Bolen Fransen, LLP)
- Second Mortgage \$4,971.49
- Screen Door \$500.00
- Vacation \$1,985.00

a. None of the tangible items purchased with special needs trust funds are listed as assets of the trust or property on hand. In addition to the annuity per #1 above, Schedule E should also include the vehicle, the electronics, and possibly an interest in the house (see below). The Court may require clarification, amendment of account and/or amendment of the various titles.

Note: Petitioner requests reimbursement for costs associated with the vehicle, such as maintenance, registration, insurance, etc., which implies that it is an asset of the trust, but it does not appear as property on hand. How is title held?

b. Need clarification regarding the use of special needs trust funds for payment of second mortgage on trustee's home. The Ex Parte Petition for Withdrawal of Funds filed 10-24-11 *begins* to explain that the trust authorizes the purchase of a residence for the beneficiary, and because his grandmother and guardian now cares for him, she is not able to work and therefore, has not kept up payments on a second mortgage on her residence. However, the narrative is incomplete, the 10-24-11 petition did not request that amount, and payment does not appear to have been approved by this Probate Court.

Although the narrative points to the trust's authorization to purchase real property for the beneficiary as authority for this disbursement, Petitioner does not state whether the second mortgage was paid in full or simply brought current, how the payment qualifies as a special need for the beneficiary, or whether the trust/beneficiary received consideration, such as an interest in the real property, for the contribution toward the home.

c. Need clarification regarding the use of special needs trust funds for a screen door. Was this purchase for the residence? Does the minor or the trust have an interest in or receive specific special needs benefit from this item? Examiner notes that, on its face, this appears to be an expenditure typical of home-ownership; however, because the trust does not own the home, the Court may require clarification.

c. Need clarification regarding the use of special needs trust funds of \$1,985.00 for a vacation. Examiner does not see authorization from this Court for such expenditure.

SEE PAGE 3

First Report and Account of Trustee; Petition for Its Settlement and Allowance of Attorney's Fees; Petition for Reimbursement of Expenses

NEEDS/PROBLEMS/COMMENTS (Continued):

#2 (Continued):

Declaration of Attorney Herold filed 1-10-12 states that the parties were unaware that a probate case had been opened for the trust because a website search returned only the civil case. Accordingly, requests for disbursements were made to and approved by the civil Court. Attached to the Declaration are the civil Court orders authorizing the distributions.

The Declaration states the vehicle (with audio system) is owned by Maria Alvarez-Garcia. The distribution was made personally to her because it is difficult to obtain car insurance if the owner is the trust, and also to avoid any liability to the trust in the event of an accident and/or lawsuit. The TV and computer are likewise owned by Maria Alvarez-Garcia and are located in the beneficiary's bedroom.

The Declaration states the residence is owned by Maria Alvarez-Garcia and her husband. The distributions for the second mortgage and screen door were to assist them in maintaining a residence for the beneficiary and to provide a screen door for the beneficiary's bedroom for fresh air when he is unable to be out of bed. The distribution to the second mortgage paid off that mortgage, which reduced the family's monthly burden of taking care of the beneficiary. The trust does not have an ownership interest in the residence.

The civil Court approved the \$1,985.00 for a vacation to Legoland. The trust specifically allows for distributions for a vacation and the details of the vacation were set forth on the ex parte petition.

Examiner notes that the Declaration attaches the civil Court orders, but does not provide copies of the petitions to the civil Court. The Court may require copies of the corresponding petitions for a more complete file.

Examiner notes that disbursements for items that the trust would not hold title to is not typical for special needs trusts. The Court may require further clarification.

3. Attorney's fee calculation of \$3,249.00 appears incorrect. Examiner calculates 11 hours @ \$295/hr = \$3,245.00 (a \$4.00 difference). *Declaration states the correct amount is \$3,245.00.*
4. Attorney's fees include 3.8 hours or \$1,121.00 in connection with two requests for withdrawal of funds. The Court may require clarification. *Declaration states detailed descriptions were provided to the civil Court in connection with the ex parte petitions that were presented there.*
5. Petitioner requests to waive future accountings; however, based on the above issues, the Court may require further clarification regarding the potential trust assets, and more specific language in the order regarding the disposition of such assets, before authorizing such waiver.

Also, if future accountings are waived, the Court may set status hearings annually or biennially for brief status reports on the trust.

Declaration states that since the only assets are blocked, waiver of account would reduce attorney fees and court costs payable by the trust.